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ORIGINAL
FILED

JUN - 7 2007

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.

Case No.:

Plaintiff,

IN ADMIRALTY

vs.

AFFIDAVIT OF SUBSTITUTE
CUSTODIAN

BARRY COHEN, CHRIS COHEN (aka
CHRISTENE COHEN), *in personam* and
F/V POINT LOMA, Official Number
515298, a 1968 steel-hulled, 126-gross ton,
70.8- foot long fishing vessel, her engines,
tackle, furniture, apparel, etc., *in rem*, and
Does 1-10,

Defendants.

I, Mark Brown, am the Vice President of National Maritime Services, Inc.

("National Maritime Services"), and declare that:

1. I am familiar with the F/V POINT LOMA (Official No. 515298) (the
"Vessel"), described in the Complaint accompanying this Affidavit, at least to the extent of
her size, type, construction material, location in the District, and apparent condition, and
attest that National Maritime Services can provide adequate facilities and supervision for,
and can safely keep, the Vessel in the District in place of the U.S. Marshal during the
pendency of this action and until further order of the Court; and, in this regard, National

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10/10/2007/02/04

1 Maritime Services would exercise due care to preserve and protect the Vessel during the
2 custodianship.

3 2. National Maritime Services is a professional substitute custodian for all types
4 of vessels, including commercial fishing vessels such as the F/V POINT LOMA, and
5 operates throughout the United States, its Territories and Possessions. National Maritime
6 Services has been continuously in operation for over 10 years, and, as of 1995, the Wall
7 Street Journal reported that National Maritime Services was the largest company of its kind
8 in the United States. National Maritime Services has been approved to act as a vessel
9 substitute custodian by the U.S. District Courts in over 1,000 cases.

10 3. As the appointed Substitute Custodian of the Vessel, National Maritime
11 Services will:

- 12 a. Attend the arrest of the Vessel with the U.S. Marshal;
- 13 b. Immediately assume the Substitute Custodianship of the Vessel from the
14 Marshal;
- 15 c. Conduct an inventory of non-appurtenant personal property on the Vessel
16 (the "Property");
- 17 d. Turn the Property from the Vessel over to the Vessel's Owner (if present
18 at arrest) in exchange for a detailed receipt of the Property or, if the
19 Owner is not present at the time of the Vessel's arrest, then the Property
20 will be placed in bonded storage until claimed by the Owner and a
21 reasonable storage fee for the Vessel property is paid by the Owner (or,
22 alternatively, the reasonable cost of such is added as a *custodia legis*
23 expense);
- 24 e. Be responsible for the safekeeping of the Vessel during the pendency of
25 this action; and
- 26 f. Comply with all Orders of this Court regarding the Vessel and National
27 Maritime Services' Substitute Custodianship of the Vessel.

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Delivered via e-mail 6/6/07

4. The daily custody charges for National Maritime Services to keep the Vessel safe and afloat will be \$200.00 per day, plus \$425.00 per day for a U.S. Coast Guard licensed watch keeper. National Maritime Services also charges a one-time service fee of \$1,500.00 and will seek Court approval of any extraordinary expenses relating to its Substitute Custodianship of the Vessel.

5. National Maritime Services has assets and insurance adequate to respond to damage for loss of, or injury to, the Vessel during custody and for damages sustained by third parties due to any negligence of National Maritime Services or its employees or agents during custody. National Maritime Services will hold harmless and indemnify the United States and the U. S. Marshal's Service from any claims against either of them arising out of the negligent performance of any duties it undertakes as Substitute Custodian. The cost of insurance is \$25.50/day up to a maximum of \$255/month.

6. Further, National Maritime Services agrees to accept Substitute Custodianship of the Vessel in accordance with the Order Appointing Substitute Custodian.

7. All costs and expenses incidental to the keeping of the Vessel will be paid initially by Plaintiff DEL MAR. The U.S. Marshal will not assume liability for any costs incurred incidental to a Court-appointed custodianship.

I declare under penalty of perjury, under the laws of the United States that the foregoing is true and correct, and that this Declaration was executed on June 6, 2007 at Fort Lauderdale, Florida.



Mark Brown
Vice President
National Maritime Services, Inc.

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Case Name: Del Mar Seafoods, Inc v. Cohen et al
Case Number: 3:07-cv-2952
Filer: Del Mar Seafoods, Inc
Document Number: 5(No document attached)

Docket Text:
AFFIDAVIT of Substitute Custodian filed by Del Mar Seafoods, Inc. (slh, COURT STAFF)
(Filed on 6/7/2007)

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